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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,863	09/09/2003	Mark L. Yoseloff	PA0906.ap.US	5188

7590 02/24/2005

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EXAMINER
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LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/658,863	<b>Applicant(s)</b> YOSELOFF ET AL.	
	<b>Examiner</b> Benjamin H. Layno	<b>Art Unit</b> 3711	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB08)<br>Paper No(s)/Mail Date <u>02/21/05</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 6, 8-11, 15, 18-21, 24 and 25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over de Keller.

The patent to de Keller discloses a method of playing a live casino game. To play de Keller's game players place a first multiple part wager 5, 6, 7 to participate in a first poker-game (five-card poker game). Players may also optionally place a side bet wager (Bonus Bet) to participate in a second poker-type game, col. 5, lines 8-21. De Keller recites that at the start of the game "each player is dealt two cards (**this number may vary**)", col. 2, lines 58-63. Thus, it would have been obvious to deal a three-card partial hand to each player. De Keller also recites that "the dealer receives three cards (**this number may vary**) one face-up and two face-down. The three dealer's cards are community cards.....and complete each player's hand", col. 2, lines 63-66. Thus, it would have been obvious for the dealer to receive two community cards. The first

Art Unit: 3711

multipart wager is resolved according to the rules of five-card poker, col. 4, lines 39-44, and five-card poker pay-off table, col. 4, lines 53-56. The optional side bet wager is resolved according to three-card poker, and a three-card poker pay-off table, col. 5, lines 9-21, that includes e.g. Royal Flush, Straight Flush, etc. The game may be played on a casino table, Fig. 1, or may be played on an electronic video wagering game, col. 5, lines 28-50. Each part of the multipart wager is equal, col. 2, lines 58-60.

***Claim Rejections - 35 USC § 103***

4. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Keller.

Determining exactly what odds to payout for winning hand combination, is simply a casino business decision dependent<sup>on</sup> a required house advantage and the amount of profits the casino decides to take in.

5. Claims 3-5, 7, 12-14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Keller as applied to claim 1 above, and further in view of Breeding 081'.

The patent to Breeding 081' teaches that it is known in casino poker games for players to place a multipart wager 22a-22c, have three cards dealt to each player 19a-19g, have two community cards dealt 21, have the players optionally remove one part of their multipart wager after viewing their three cards, and have the players optionally remove another part of their multipart wager after the first community card is revealed. In view of such teaching, it would have been obvious to modify de Keller's poker game wherein each player would have been required to place a three part multipart wager on

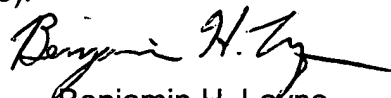
Art Unit: 3711

wagering areas 5, 6, 7 at the beginning of de Keller's game. The players' three-card partial poker hand, and the two community cards would have been dealt. Each player would have optionally removed one part of their multipart wager after viewing their three cards, and each player would have optionally removed another part of their multipart wager after the first community card is revealed. This modification would have provided a hedge or insurance to each player, thus preventing players from losing too much money if any player receives a losing hand in de Keller's game.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571)272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Benjamin H. Layno  
Primary Examiner  
Art Unit 3711